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REMARKS

Claims 1-24 and 26-30 were presented for examination. The Office Action dated April 20, 2005 rejects claims 1-24 and allows claims 26-30. Claims 1-24 and 26-30 remain pending in the application.

The Office Action rejects claims 1-24 under 35 U.S.C. 103(a) as being obvious over Huang (U.S. Patent No. 6,292,829) in view of Parvathaneny (U.S. Patent No. 5,850,544).

Applicants respectfully traverse the rejection because Huang is disqualified as prior art against the Applicants' claimed invention under 35 U.S.C. 103(c)(1). According to 35 U.S.C. 103(c)(1), "subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person."

The Huang patent was filed on July 15, 1998 and issued September 18, 2001. In the interim, the Applicants filed their patent application on August 4, 2000. Applicants submit that if the Huang patent qualifies as

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prior art, the reference qualifies only under subsection 102(e) – see also the previous non-final office action, dated November 17, 2004, which applied Huang in a 102(e) rejection.

Also, the Applicants' present patent application (no. 09/632,294) and the Huang patent were, at the time the invention of application no. 09/632,294 was made, owned by or subject to an obligation of assignment to Nortel Networks Limited (formerly Nortel Networks Corporation). In support of this statement, Applicants present the following:

First, the Huang patent was assigned to Northern Telecom Limited by July 13, 1998, and then to Nortel Networks Corporation on April 29, 1999 and to Nortel Networks Limited on August 30, 2000 by virtue of two name changes of the corporation. A copy of a Patent Assignment Abstract of Title for the Huang patent, obtained from the "U.S. PTO Assignments on the Web" website, is enclosed herewith.

Second, the Applicants' application was filed on August 4, 2000 and subsequently assigned to Nortel Networks Limited by the two Applicants on October 26, 2000 and November 2, 2000. The assignment was recorded on January 09, 2001 at reel/frame 011451/0727. A copy of the Assignment Recordation is enclosed herewith. Accordingly, at the time the Applicants made the invention of the application no. 09/632,294, the Applicants'

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invention, as claimed therein, was subject to an obligation of assignment to and the Huang patent was owned by Nortel Networks Limited (the current name).

Therefore, because Huang may qualify as prior art only under 102(e) and the Applicants' application and the Huang patent were owned or subject to an obligation of assignment to the same organization, Nortel Networks, at the time the later invention was made, Applicants submit that Huang is disqualified as prior art for purposes of 35 U.S.C. 103(a). Consequently, Applicants respectfully submit that any rejection of the Applicants' claims based on Huang in view of Parvathaneny is rendered moot. Applicants therefore respectfully request that the rejection of the claims be withdrawn. Notwithstanding, should the Examiner determine that Huang is in fact valid prior art for purposes of 103(a), Applicants respectfully request that the Examiner issue a non-final action (rather than a final), to permit the Applicants an opportunity to traverse the rejection, provided this is within the Examiner's discretion.

CONCLUSION

In view of the arguments made herein, Applicants submit that the application is in condition for allowance and requests early favorable action by the Examiner.

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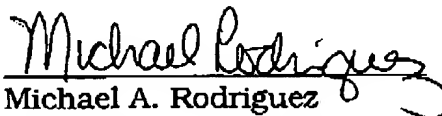
If the Examiner believes that a telephone conversation with the Applicant's representative would expedite allowance of this application, the Examiner is cordially invited to call the undersigned at (508) 303-2003.

Authorization is hereby granted to apply any credits or fees due in this case not covered by check to Deposit Account 50-2295.

Respectfully submitted,

Date: 7/11/05
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